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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,555	10/08/2003	Lindy Brennan	1139.002C1	7779
25215	7590	05/21/2004	EXAMINER	
DOBRUSIN & THENNISCH PC 401 S OLD WOODWARD AVE SUITE 311 BIRMINGHAM, MI 48009			HARRIS, STEPHANIE N	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/681,555

Applicant(s)

BRENNAN ET AL.

Examiner

Stephanie Harris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 15-22 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 15 currently depends on claim 13 and it appears that claim 15 should depend on claim 14.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16, 22, and 23-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 16 and 22 recite the limitation "the duct " in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 24 recites the limitation "the foam seat cushion " in line 15. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Larsson (USPN 6003950).

Regarding claim 1, Larsson (USPN 6003950) discloses a ventilated seat for a vehicle comprising a vehicle seat having a ventilated component selected from a seat component and a backrest component, which both provide a seat cushion and an air permeable trim surface (10) at the occupant contact areas (Abstract, Col. 4, lines 8-27) as seen in Figure 1.

An insert (7), which is open at both sides and located beneath the trim surface, includes foam material and is located beneath the trim surface as seen in Figure 2. The insert also includes a spacer layer (15), which defines an open space, and is comprised of an air permeable foam material (Col. 4, lines 15-20) as seen in Figures 2 and 3.

A fluid mover/blower (26) is in fluid communication with the insert for moving air through the insert and the trim surface. A tubular structure/duct (25) provides fluid communication between the insert and the fluid mover. The duct is partially provided by the seat cushion and defines a passageway through the cushion (Col. 4, lines 34-39). A

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deflector (37) is disposed over the passageway defined by the duct. A plurality of sub-passageways (56, 57) are formed in the foam seat cushion, formed by the inset (7), and extends away from the passageway (Col. 6, line 58- Col. 7, line 4). The fluid mover is configured to push and pull air through the spacer layer (Col. 4, lines 39-47).

The seat cushion and the sub-passageways include an air impermeable lining (Col. 4, lines 8-27). The fluid mover (26) is a blower configured to push air through the trim surface (Col. 4, lines 39-47). The fluid mover is in fluid communication with the spacer material to move air through the open space and the trim surface (Col. 4, lines 28-40) as seen in Figure 2. The spacer material includes a polymeric strand material (Col. 4, lines 15-17). The duct can be flexible (Col. 5, lines 4-20).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-8, 24, and 25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson (USPN 6003950) in view of Eksin et al. (USPN 6541737).

Larsson has been described above. Larsson shows all of the teachings of the claimed invention but fails to show the use of a heated layer and a multi-layer laminate. Eksin discloses a seat surface (11) with multiple layers, including a heated layer (37), as seen in Figure 2 (Col. 4, lines 5-18). Eksin discloses an insert is comprises of an adhesive layers which form a multi-layer laminate for adhering a first layer to a second layer (Col. 5, lines 20-22).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the layers of Larsson in view of Weiss with an adhesive layer to form a multi-layer laminate, as shown by Eksin, in order to reduce slippage between the pad layers.

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Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson (USPN 6003950) in view of Eksin et al. (USPN 6541737) and in further view of Weiss et al. (USPN 6064037).

Larsson in view of Eksin has been described above. Larsson in view of Eksin shows all of the teachings of the claimed invention but fails to show the use of a heated layer. Weiss discloses a seat surface (1) with multiple layers, including a layer that with an integrated heater (4) as seen in Figure 2 (Col. 3, lines 16-33; Col. 4, lines 15-29). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the insert layers of Larsson in view of Eksin with the heater integrated layer, as shown by Weiss, in order to provide additional comfort for the occupant of the seat.

Claims 11-23, 26, and 27, are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson (USPN 6003950) in view of Eksin et al. (USPN 6541737) and in further view of Weiss et al. (USPN 6064037) and in further view of Faust et al. (USPN 5934748).

Larsson in view of Eksin and Weiss has been described above. Larsson in view of Eksin and Weiss shows all of the teachings of the claimed invention but fails to show the use of a control unit to operate a fluid mover and a heated layer and the use of a temperature sensor.

Faust discloses a ventilated seat with a control unit (34) for selectively operating a fluid mover (23), which provides air flow, and a heater layer (18, 21) (Col. 3, lines 19-

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23 and 35-3; Col. 4, lines 1-11). The control unit is configured to operate the heater layer, the fluid mover at two or more different output levels (Col. 4, lines 13-46). The control unit is in signaling communication with a temperature sensor and the control unit is configured to activate the fluid mover if a relatively high temperature is sensed by the sensor and activate the heater if a relatively low temperature is sensed by the sensor (Abstract). The fluid mover is configured to pull air through the open space provided by the spacer layer (Col. 3, lines 19-27).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the ventilation seat of Larsson in view of Eksin and Weiss with the control unit and temperature sensor, as shown by Faust, in order to provide optimal sitting climates by automatic temperature regulation.

Claims 28-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson in view of Faust et al.

Larsson and Faust have been described above. Larsson shows all of the teachings of the claimed invention but fails to show the use of a control unit to operate a fluid mover and a heated layer and the use of a temperature sensor. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the ventilation seat of Larsson with the control unit and temperature sensor, as shown by Faust, in order to provide optimal sitting climates by automatic temperature regulation.

Larsson in view of Faust discloses all of the claimed structure of the instant invention. Larsson in view of Faust lacks only the specifically recited method steps. It



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would have been obvious, if not inherent, to one having ordinary skill in the pertinent art at the time of the invention to use the ventilated seat of Larsson in view of Faust by the claimed method steps. Such a modification provides a conventional and efficient method of using the device of Larsson in view of Faust.

Claims 34-36 and 41-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson in view of Faust et al in further view of Eksin et al.

Larsson, Faust, and Eksin have been described above. Larsson in view of Faust shows all of the teachings of the claimed invention but fails to show the use of a heated layer and a multi-layer laminate.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the layers of Larsson in view of Faust with an adhesive layer to form a multi-layer laminate, as shown by Eksin, in order to reduce slippage between the pad layers.

Larsson in view of Faust and Eksin discloses all of the claimed structure of the instant invention. Larsson in view of Faust and Eksin lacks only the specifically recited method steps. It would have been obvious, if not inherent, to one having ordinary skill in the pertinent art at the time of the invention to use the ventilated seat of Larsson in view of Faust and Eksin by the claimed method steps. Such a modification provides a conventional and efficient method of using the device of Larsson in view of Faust and Eksin.

Claims 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson in view of Faust et al in further view of Eksin et al. and Weiss et al.

Larsson, Faust, Eksin, and Weiss have been described above. Larsson in view of Faust and Eksin has been described above. Larsson in view of Faust and Eksin shows all of the teachings of the claimed invention but fails to show the use of a heated layer. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the insert layers of Larsson in view of Faust and Eksin with the heater integrated layer, as shown by Weiss, in order to provide additional comfort for the occupant of the seat.

Larsson in view of Faust and Eksin and Weiss discloses all of the claimed structure of the instant invention. Larsson in view of Faust and Eksin and Weiss lacks only the specifically recited method steps. It would have been obvious, if not inherent, to one having ordinary skill in the pertinent art at the time of the invention to use the ventilated seat of Larsson in view of Faust and Eksin and Weiss by the claimed method steps. Such a modification provides a conventional and efficient method of using the device of Larsson in view of Faust and Eksin and Weiss.

### ***Conclusion***

The prior and current art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to ventilated seats: USPN 6186592, US2004/0036326,

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US20020067058, USPN 5902014, USPN 5924766, USPN 6179706, US2002/0150478, US2002/0096931, and DE 3513909.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie Harris whose telephone number is 703-305-1838. The examiner can normally be reached on Monday-Friday from 9am to 3pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo, can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SNH

May 17, 2004

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Art Unit 3636

  
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